

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DAVID JAMES KRAUSE,
Petitioner,

v.

C.M.F. WARDEN,
Respondent.

Case No. [23-cv-05122-VKD](#)

ORDER OF TRANSFER

David James Krause, a state prisoner currently confined at the California Medical Facility in Vacaville, California, filed a *pro se* petition for writ of habeas corpus, challenging his state conviction out of San Luis Obispo County. Dkt. No. 1 at 1.

A petition for a writ of habeas corpus made by a person in custody under the judgment and sentence of a state court of a state which contains two or more federal judicial districts may be filed in either the district of confinement or the district of conviction. *See* 28 U.S.C. § 2241(d). Mr. Krause's district of confinement is the Eastern District of California, which includes Solano County where Vacaville is located. 28 U.S.C. § 84(b). However, Mr. Krause's district of conviction is the Western Division of the Central District, which includes San Luis Obispo County. 28 U.S.C. § 84(c)(2). Accordingly, the Northern District of California has no jurisdiction over this matter.

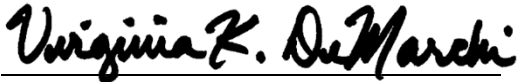
Federal courts in California traditionally have chosen to hear habeas petitions challenging a state conviction or sentence in the district of conviction or sentencing. *See* Habeas L.R. 2254-3(b)(1); *Dannenberg v. Ingle*, 831 F. Supp. 767, 768 (N.D. Cal. 1993); *Laue v. Nelson*, 279 F. Supp. 265, 266 (N.D. Cal. 1968). Accordingly, in the exercise of its discretion and in the

furtherance of justice, the Court finds that this case should be transferred to the United States District Court for the Western Division of the Central District of California. *See* 28 U.S.C. § 1406(a); Habeas L.R. 2254-3(b)(1).

The Clerk of the Court shall terminate all pending motions and transfer the entire file to the Western Division of the Central District of California.

IT IS SO ORDERED.

Dated: October 10, 2023



VIRGINIA K. DEMARCHI
United States Magistrate Judge